

Chapter N 6

PLEADING, PRACTICE AND PROCEDURE

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N 6.01 **Definitions.** As used in these rules "board" means the state board of nursing; "executive committee" means the executive committee of the state board of nursing; "director" means the director of nursing education; "president" means the member elected to serve as presiding officer of the state board of nursing.

N 6.02 **How proceedings initiated.** Proceedings to revoke the certificate of a registered nurse or the license of a licensed trained practical nurse, or to remove a school of nursing from the accredited list may be initiated by the board, the executive committee or the director. The director shall initiate such proceedings whenever ordered to do so by the board.

N 6.03 **Style of pleadings, etc.** All pleadings, notices, orders and other papers filed in such proceedings shall be captioned, "Before the Wisconsin State Board of Nursing" and shall be entitled "In the Matter of the Revocation of the certificate of _____, R.N., (or, the license of _____, T.P.N.) Respondent" or "In the Matter of the Removal of the _____ School of Nursing (or School for Trained Practical Nurses), Respondent, from the Accredited List."

N 6.04 **Notice of hearing and statement of issues.** Notices of hearing shall be addressed to the respondent at his last postoffice address, shown on the records of the board, shall include the statement of issues and shall be in substantially the following form: (1) IF FOR REVOCATION OF A CERTIFICATE OR LICENSE:

"To _____ R.N. (or T.P.N.)
 _____ St.
 _____ Wis.
 Respondent

"Please take notice that a hearing will be held on the _____ day of _____, 19____, at room no. ____ (or other proper designation) of the _____ building (or other proper designation) no. ____ st. in the city of _____ Wis. at ____ o'clock, __m., or as soon thereafter as the matter may be reached, on the question of whether the _____
 (license or certificate of registration)

heretofore issued to the above named respondent pursuant to ch. 149 of the Wis. Stats., should be revoked.

*Stat. Ann.
Ch. 115.09
1963*

"The issues involved and the charges there to be considered are as follows: (Here set out the alleged grounds for revocation as provided by sec. 149.07, Wis. Stats., with sufficient particularity to permit the respondent to answer and defend the charges.)

"You are required to make answer in writing to the said charges at least ____ days before the time set for said hearing; otherwise the charges will be deemed to be admitted.

"Dated at Madison, Wisconsin this _____ day of _____, 19_____.

WISCONSIN STATE BOARD OF NURSING

By _____

Director (or President)

(2) IF FOR REMOVAL OF A SCHOOL OF NURSING (OR SCHOOL FOR TRAINED PRACTICAL NURSES) FROM THE ACCREDITED LIST:

"To _____ School of Nursing
_____ St.
_____ Wis.

Respondent

"Please take notice that a hearing will be held on the _____ day of _____, 19_____, at room no. ____ (or other proper designation) of the _____ building (or other proper designation) no. ____ st. in the city of _____, Wis. at ____ o'clock, ____m, or as soon thereafter as the matter may be reached, on the question whether the respondent above named should be removed from the list of accredited schools of nursing.

"The issues involved and the matters there to be considered are whether the said respondent meets the standards established for such schools pursuant to sec. 149.01 (4), Wis. Stats., in the following respects:

(Here set out matters in which it is claimed the school is deficient.)

"Dated at Madison, Wisconsin, this _____ day of _____, 19_____.

WISCONSIN STATE BOARD OF NURSING

By _____

Director (or President)

N 6.05 Answer. A written answer shall be required in all cases involving revocation of licenses and certificates of registration, but not in cases involving accrediting of schools. Where required, the answer shall be verified, unless an admission of the allegations might subject the party to prosecution for a felony, and shall be filed with the director in triplicate (original and two copies) within at least one-half the time intervening between the notice of hearing and the time set for said hearing, and such time for answer shall be stated in said notice as required by section N 6.04. The answer must contain:

(1) A specified denial of each material allegation of the charges controverted by the respondent.

(2) A statement of any new matter constituting a defense or mitigating the offense charged, which the respondent wishes to have considered.

N 6.06 Admission by not denying. Every material allegation of the charges not controverted as prescribed shall be taken as true, but new matter in the answer shall be deemed controverted without any reply being served or filed.

*Stat. Ann.
Ch. 115.09
1963*

N 6.07 Default; relief therefrom. In case the respondent fails to submit an answer as required by section N 6.05, or fails to appear at the hearing at the time fixed therefor, the charges specified may be taken as true and the board may make findings and enter its order on the basis of the facts revealed by its investigation. But the director, executive committee or board may, for good cause shown, relieve the respondent from the effect of such default and permit him to answer and defend the proceeding, at any time before the board enters its order or within 60 days thereafter.

N 6.08 Service and filing of papers. Unless otherwise provided by law, all orders, notices and other papers may be served by the director or the board by first class or registered mail addressed to the party at the last postoffice address, shown on the records of the board, or to his attorney of record. Papers required to be filed with the director or board may be mailed to the following address:

4802 Sheboygan Avenue,
Madison, Wisconsin 53702

History: 1-2-56; am. Register, April, 1965, No. 112, eff. 5-1-65.

N 6.09 Conduct of hearings; continuances; appearances; examinations of witnesses. Unless otherwise ordered by the board, all hearings shall be conducted on behalf of the board by the executive committee or any member thereof and shall be presided over by the director or a deputy director, who shall swear all witnesses competent to take an oath. Continuances and adjournments may be granted by the executive committee for cause shown. The respondent may appear in person or by any officer, regular employee or attorney. Witnesses may be examined on behalf of the board by any member of the executive committee or by a representative of the attorney general acting as counsel for committee. The respondent or any of its agents, officers or employees may be examined adversely as prescribed by section 325.14 Wis. Stats.

History: 1-2-56; am. Register, June, 1963, No. 90, eff. 7-1-63.

N 6.10 Subpoenas; witness fees. Subpoenas may be signed and issued by the director, any member of the board or the clerk of any court of record. Witness fees and mileage of witnesses subpoenaed on behalf of the board shall be paid at the rate prescribed for witnesses in circuit court, upon filing with the director their affidavits of attendance and travel, and shall be charged to the appropriation for the administration of chapter 149, Wis. Stats.

N 6.11 Prehearing conferences. Prehearing conferences may be held at the convenience of the parties and shall be conducted by the director, who shall keep and preserve a record of any agreement as to the issues of stipulation or admission of fact which may be made at such conference. Such record shall be attached to the file and constitute a part of the official record of the case.

N 6.12 Arguments. Except as provided in section 227.12 Wis. Stats., arguments shall be submitted to the board in writing unless otherwise ordered. Ten copies of such written arguments shall be filed with the director within such time as may be fixed at the hearing, by the executive committee. The director shall forthwith send a copy to each member of the board.

N 6.13 Variances. The provisions of section 263.28, Wis. Stats., with reference to variances between the allegations and the proof, shall apply to proceedings under these rules.

N 6.14 Petition for rules or declaratory rulings. Petitions for the adoption, repeal or amendment of rules and for declaratory rulings shall be governed by sections 227.015 through 227.022, and section 227.06 Wis. Stats., and by sections H 1.41—H 1.55 Wisconsin Administrative Code of the Rules of the State Board of Health Relating to Pleading, Practice and Procedure, so far as applicable, with the following exceptions:

(1) Petitions shall be captioned, "Before the Wisconsin State Board of Nursing."

(2) The duties with reference to investigation, filing of papers, giving of notices, etc., therein imposed on the state health officer shall be performed by the director.

(3) Hearings shall be conducted by the executive committee unless otherwise ordered by the board.

(4) All final determinations shall be made by the board.